

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Claims 21-45 have been rejected. Claims 21, 25-27, 31, and 36 have been amended. Claims 24, 32, and 42-45 have been cancelled without prejudice to further prosecution on the merits, and new Claims 46-74 have been added. No new matter has been added. Accordingly, Claims 21-23, 25-31, 33-41, and 46-74 will be pending in the present application upon entry of this Reply and Amendment.

Claim Rejections – 35 U.S.C. § 112

On page 2 of the Office Action, Claims 21-45 were rejected under 35 U.S.C. § 112 ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated:

The term “approximately”, appended to various amounts, would render them indefinite, because how far away from the stated value an amount may be, while still being “approximately” that value, is not numerically specified. The term “generally spherical” is likewise unclear, as to how far from a sphere a shape may be, while still meeting this term.

The Applicants respectfully disagree, and request reconsideration and withdrawal of the 35 U.S.C. § 112 ¶ 2 rejections presented in the Office Action.

The term “approximately” is commonly used in patent claiming and is intended to have a broad meaning in harmony with the common and accepted usage by those of ordinary skill in the art to which the subject matter of this patent application pertains. It should be understood by those of skill in the art who review this patent application that the term “approximately” is intended to allow a description of certain claimed features without restricting the scope of these features to the precise numerical ranges recited. Accordingly, the word “approximately” should be interpreted as indicating that insubstantial or inconsequential modifications or alterations of the subject matter claimed are considered to be within the scope of the invention as recited in the claims.

Although the Applicants disagree that the term “generally spherical” is indefinite under 35 U.S.C. § 112 ¶ 2, Claim 21 has been amended to delete this term.

Allowable Claims and Comment on Statement of Reasons for Allowance

On page 5 of the Office Action, the Examiner indicated that Claims 24-27, 32, and 36-41 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112 ¶ 2 (and, in the case of Claims 24-27 and 32, to include all of the limitations of the base claim and any intervening claims).

The Examiner provided the following statement of reasons for allowance:

Claims 24-27 and 32 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The prior art does not disclose a method of making a battery plate in which a paste of tetrabasic lead sulfate is cured at less than 48°C. instead, the curing temperatures of the prior art are higher.

Claims 36-41 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. These claims also recite making a battery plate in which a paste of tetrabasic lead sulfate is cured at less than 48°C, incorporating this step in to a process of making a battery.

Claim 21 has been amended to include all limitations of Claim 24 (although the Applicants note that the last element reads “curing the paste material...” instead of “curing the battery grid and paste material...”; a similar amendment has been made to Claim 36 to more accurately describe the curing step).

Claim 31 has been amended to include all limitations of Claim 32.

As described above, the Applicants have requested reconsideration and withdrawal of the 35 U.S.C. §112 ¶ 2 rejections presented in the Office Action.

Accordingly, the Applicants submit that independent Claims 21, 31, and 36 (and all claims dependent thereon, including newly presented Claims 46-74) are in condition for allowance. Consideration and allowance of all pending claims is respectfully requested.

While the Applicants agree that the allowed claims recite a combination of subject matter that is patentable over the cited references, the Applicants do not necessarily agree with or acquiesce in the statement of reasons for allowance given by the Examiner. Moreover, the Applicants note that the recited subject matter as well as various other subject matter and/or combinations of subject matter may be patentable for other reasons than those given by the Examiner. The Applicants expressly reserve the right to set forth additional and/or alternative reasons for patentability and/or allowance with the present Application or in any other future proceeding.

Claim Rejections – 35 U.S.C. § 102 and § 103

On page 2 of the Office Action, Claims 21-23, 29, and 42-43 were rejected under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0121233 to Klein et al. On page 3 of the Office Action, Claim 28 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Klein et al. On page 3 of the Office Action, Claim 30 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Klein et al. in view of U.S. Patent No. 4,329,182 to Sugahara et al. On page 4 of the Office Action, Claims 31, 33-35, and 44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Klein et al. in view of U.S. Patent No. 5,302,476 to Kao et al. On page 4 of the Office Action, Claim 45 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Klein et al. in view of U.S. Patent No. 6,755,874 to Chen et al.

As described above, Claims 21 and 31 have been amended in accordance with the Examiner's suggestion, and the Applicants submit that all pending claims are in condition for allowance. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102(e) and § 103 is respectfully requested.

* * *

It is submitted that each outstanding objection and rejection to the Application has been overcome, and that the Application is in a condition for allowance. The Applicants request consideration and allowance of all pending claims.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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